

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4833 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Nos. 1 to 5 No.

AMBALAL GOBARJI THAKORE

Versus

STATE OF GUJARAT

Appearance:

MRS DT SHAH for Petitioner
MR.V.B.GARANIA for the Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 21/06/96

ORAL JUDGEMENT

Mrs.D.T.Shah has submitted that so far as these writ proceedings are concerned she does not press reliefs mentioned at item nos 18(A) to 18(G) except 18(AA) and 18(AAA) at this stage. I have perused the impugned order dated 6.8.1994 (Annexure 'U') passed by respondent no.8 and heard Mrs.Shah for the petitioner and Mr.Garania for the respondents. The only ground on which the conciliation proceedings have been refused to be

initiated by the Assistant Labour Commissioner is that there are only 3 employees of the members of the union out of 25 employees and therefore the demand with regard to the service condition do not have the support of substantial number of workmen. Mrs. Shah cited the judgment of this Court dated 20.3.1996 rendered in Special Civil Application No. 616 of 1996 wherein also the number of the concerned employees was as short as 9 and the petition was allowed. In the facts and circumstances of the case, I find that the Assistant Labour Commissioner ought to have initiated the conciliation proceedings on the demand raised before him and the initiation of conciliation proceedings should not have been refused on the ground of want of substantial number of workmen. Even if only 3 of the employees were members of the petitioner union out of 25 employees it could not be the basis to refuse even the initiation of conciliation proceedings.

In the result, this Special Civil Application succeeds. The impugned order dated 6.8.1994 passed by the Conciliation Officer is hereby quashed and set aside and respondent No.8 is directed to go ahead with the conciliation proceedings on the demand raised by the petitioner. Rule is made absolute in the terms as aforesaid. No order as to costs. Direct service is permitted only for respondent no.8.
